

**SUPREME COURT MINUTES
FRIDAY, AUGUST 12, 2005
SAN FRANCISCO, CALIFORNIA**

S136294

C050297 Third Appellate District

COSTA v. S.C. (LOCKYER)

Petition for review granted

Petition for review GRANTED

The judgment of the Superior Court of Sacramento County filed on July 22, 2005, in *Lockyer v. McPherson et al.* (05CS00998), directing the Secretary of State not to place any version of Proposition 77 on the November 8, 2005, special election ballot or in the voter election materials, is stayed pending this court's determination of this matter or further order of this court.

In the absence of a showing that the discrepancies between (1) the version of the initiative measure that was submitted to the Attorney General and (2) the version of the initiative measure that was circulated for signature (and that was signed by the requisite number of qualified voters and has been certified for placement on the ballot) were likely to have misled the persons who signed the initiative petition, we conclude that it would not be appropriate to deny the electorate the opportunity to vote on Proposition 77 at the special election to be held on November 8, 2005, on the basis of such discrepancies. (Cf. *Assembly v. Deukmejian* (1982) 30 Cal.3d 638, 652-654.) Accordingly, the Secretary of State and other public officials are directed to proceed with all the required steps to place in the election pamphlet and on the ballot of the special election to be held on November 8, 2005, the version of Proposition 77 that was signed by the requisite number of qualified voters. Any public official or other person who has not had an opportunity to revise statements or ballot arguments that have already been submitted to the Secretary of State in order to reflect the version of Proposition 77 that will appear in the election pamphlet and on the ballot shall be permitted to submit a revised statement or ballot argument to the Secretary of State no

later than 3 p.m. on Monday, August 15, 2005.
After the election, we shall determine whether to retain jurisdiction in this matter and resolve the issues raised in the petition.

Kennard, J., and Moreno, J., voted to deny review.

Werdegar, J., unavailable and did not participate.

Votes: George, C.J., Baxter, Chin, JJ., and Aldrich*

*Hon. Richard D. Aldrich, Associate Justice of the Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

S134290

E035435 Fourth Appellate District,
Division Two

PEOPLE v. RODRIGUEZ

Time extended to grant or deny review

to September 16, 2005

S134548

C046378 Third Appellate District

PEOPLE v. MYERS

Time extended to grant or deny review

to September 19, 2005

S134727

B164706 Second Appellate District,
Division Seven

PEOPLE v. WALLACE

Time extended to grant or deny review

to September 19, 2005

S134860

F047725 Fifth Appellate District

KEMP (JOHNNIE) ON H.C.

Time extended to grant or deny review

to September 16, 2005

S134870

B182821 Second Appellate District,
Division Seven

BAHAM (LEON) ON H.C.

Time extended to grant or deny review

to September 19, 2005

S134880

B173122 Second Appellate District,
Division Three

PEOPLE v. RODGERS

Time extended to grant or deny review

to September 19, 2005

S134884

F043761 Fifth Appellate District
F043816

PEOPLE v. CHA

Time extended to grant or deny review

to September 19, 2005.

S134909

H028853 Sixth Appellate District

RAMOS (DANIEL) ON H.C.

Time extended to grant or deny review

to September 20, 2005

S134916

F048066 Fifth Appellate District

HOSKINGS (JOHN) ON H.C.

Time extended to grant or deny review

to September 20, 2005

S134924

C044063 Third Appellate District

BARCLAY v. JESSE M. LANGE DISTRIBUTOR,

Time extended to grant or deny review

to September 16, 2005.

S134928

A110322 First Appellate District,
Division One

PARKER (CLIFFORD) ON H.C.

Time extended to grant or deny review

to September 20, 2005

S134960

F047822 Fifth Appellate District

THOMPSON (RODERICK K.) ON H.C.

Time extended to grant or deny review

to September 21, 2005

S134961

E038086 Fourth Appellate District,
Division Two

VIVIAN (LINDA) ON H.C.

Time extended to grant or deny review

to September 21, 2005

S134975

D044282 Fourth Appellate District,
D044283 Division One
D044516
D044517
D044519
D044520

PEOPLE v. MATELJAN

Time extended to grant or deny review
to September 19, 2005.

S134990

F044039 Fifth Appellate District

PEOPLE v. SOLIS

Time extended to grant or deny review
to September 22, 2005

S134995

A110416 First Appellate District,
Division Four

VONG (BINH) ON H.C.

Time extended to grant or deny review
to and including September 20, 2005.

S134999

B179349 Second Appellate District,
Division Eight

AUTOPSY/POST SERVICES INC. v. CITY OF LOS ANGELES

Time extended to grant or deny review
to September 22, 2005

S135001

B183192 Second Appellate District,
Division Eight

BARGE v. S.C. (AMALGAMATED BANK)

Time extended to grant or deny review
to September 22, 2005

S135018

B180832 Second Appellate District,
B175006 Division Seven

CUEVAS (ROBERTO) ON H.C.

Time extended to grant or deny review
to September 22, 2005

S031641

PEOPLE v. TATE (GREGORY O.)

Extension of time granted

to October 14, 2005 to file appellant's opening brief. After that date, only two further extensions totaling about 140 additional days will be granted. Extension granted based upon

Deputy State Public Defender Harry Gruber's representation that he anticipates filing the brief by 3-3-2006.

S034800

PEOPLE v. DEHOYOS (RICHARD L.)
Extension of time granted

to October 14, 2005 to file appellant's opening brief.

S044739

PEOPLE v. BANKSTON (ANTHONY G.)
Extension of time granted

to October 17, 2005 to file appellant's opening brief. After that date, only six further extensions totaling about 360 additional days will be granted. Extension is granted based upon State Public Defender Michael J. Hersek's representation that he anticipates filing that brief by 10/19/2006.

S048763

PEOPLE v. NELSON (SERGIO D.)
Extension of time granted

to October 14, 2005 to file respondent's brief. After that date, only three further extensions totaling about 150 additional days will be granted. Extension is granted based upon Deputy Attorney General Sharon E. Loughner's representation that she anticipates filing that brief by 3/2006.

S052374

PEOPLE v. BROWN (STEVEN)
Extension of time granted

to October 14, 2005 to file appellant opening brief.

S064306

PEOPLE v. FAMALARO (JOHN J.)
Extension of time granted

to October 14, 2005 to file appellant's opening brief. After that date, only two further

extensions totaling about 90 additional days will be granted. Extension is granted based upon Deputy State Public Defender Joel Kirshenbaum's representation that he anticipates filing that brief by 1/2006.

S064415

PEOPLE v. BRAMIT (MICHAEL L.)
Extension of time granted

to October 14, 2005 to file appellant's opening brief. After that date, only two further extensions totaling about 120 additional days will be granted. Extension is granted based upon Deputy State Public Defender Peter R. Silten's representation that he anticipates filing that brief by 2/15/2006.

S064858

PEOPLE v. SCOTT (ROYCE LYN)
Extension of time granted

to October 17, 2005 to file appellant's opening brief. After that date, only four further extensions totaling about 210 additional days will be granted. Extension is granted based upon Deputy State Public Defender Susan Ten Kwan's representation that she anticipates filing that brief by 5/2006.

S067353

PEOPLE v. GONZALES (IVAN)
Extension of time granted

to October 24, 2005 to file appellant's opening brief.

S070327

PEOPLE v. WILSON (ANDRE)
Extension of time granted

to September 15, 2005 to file appellant opening brief. After that date, no further extension will be granted. Extension granted based upon Senior Deputy State Public Defender Evan Young's representation that she anticipates filing the brief by 9-15-2005.

S095223

PEOPLE v. BLOOM (ROBERT MAURICE)

Extension of time granted

to October 14, 2005 to file appellant's opening brief.

S123618

JENKINS (DANIEL S.) ON H.C.

Extension of time granted

to September 6, 2005 to file reply to informal response. After that date, only one further extension totaling about 30 additional days will be granted. Extension granted based upon counsel Michael R. Snedeker's representation that he anticipates filing the document by 10-3-2005.

S126085

DYKES (ERNEST) ON H.C

Extension of time granted

to September 12, 2005 to file reply to informal response. After that date, only three further extensions totaling about 90 additional days will be granted. Extension granted based upon counsel Steven S. Lubliner's representation that he anticipates filing the document by 12-12-2005.

S126715

B152759 Second Appellate District,
B154184 Division Five

SOUKUP v. HAFIF

Extension of time granted

to serve and file the reply brief on the merits to September 22, 2005.

S129115

KIPP (MARTIN JAMES) ON H.C.

Extension of time granted

to August 29, 2005 to file the informal response to the petition for writ of habeas corpus. Extension is granted based upon Deputy Attorney General Randall D. Einhorn's representation that he anticipates filing that document by 8/29/2005. After that date, no further extension will be granted.

S129476

B176918 Second Appellate District,
Division Five

SMITH v. S.C. (L'OREAL, USA)

Extension of time granted

to September 30, 2005 for real party in interest
to file a consolidated answer to amicus curiae
briefs in support of petitioner.

S130314

SAPP (JOHN) ON H.C.

Extension of time granted

to September 9, 2005 to file the reply to the
informal response to the petition for writ of
habeas corpus. After that date, only one further
extension totaling about 30 additional days will
be granted. Extension is granted based upon
counsel Bruce Eric Cohen's representation that
he anticipates filing that document by
10/10/2005.

S132666

F044291 Fifth Appellate District

PEOPLE v. NAVARRO

Extension of time granted

to September 16, 2005 for appellant to file the
opening brief on the merits.

S133770

HOVARTER (JACKIE) ON H.C.

Extension of time granted

to September 9, 2005 to file the informal
response to the petition for writ of habeas
corpus. After that date, only six further
extensions totaling about 180 additional days
will be granted. Extension is granted based
upon Deputy Attorney General David H. Rose's
representation that he anticipates filing that
document by 3/9/2006.

S133794

B174826 Second Appellate District,
Division Four

PIONEER ELECTRONICS v. S.C. (OLMSTEAD)

Extension of time granted

to file the opening brief on the merits to
September 26, 2005.

S134394**HARTLEY ON DISCIPLINE**

Recommended discipline imposed: disbarred

It is hereby ordered that **JOSEPH MARIOTT HARTLEY, State Bar No. 97610**, be disbarred from the practice of law and that his name be stricken from the roll of attorneys. Respondent is also ordered to comply with rule 955 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is effective.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S134396**WALKER ON DISCIPLINE**

Recommended discipline imposed

It is ordered that **Conrad George Walker, State Bar Number 34855**, be suspended from the practice of law in the State of California for three years, that execution of the three-year suspension be stayed, and that he be placed on probation for three years on the conditions of probation, including one year actual suspension, recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on April 18, 2005. Credit towards the one-year period of actual suspension is given for the period of Walker's interim suspension, which began on June 26, 2004. (*In re Young* (1989) 49 Cal.3d 257, 270.) Costs are awarded to the State Bar, and one-fourth of those costs must be added to and made a part of Walker's annual State Bar membership fees for the years 2006, 2007, 2008, and 2009. (Bus. & Prof. Code, § 6086.10.)

127865-05

THE HONORABLE CYNTHIA G. AARON, Associate Justice of the Court of Appeal, Fourth Appellate District, Division One, is hereby assigned to assist the Supreme Court of California, as a justice thereof, on August 12, 2005, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a

vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

127866-05

THE HONORABLE JAMES A. ARDAIZ, Presiding Justice of the Court of Appeal, Fifth Appellate District, is hereby assigned to assist the Supreme Court of California, as a justice thereof, on August 12, 2005, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

127867-05

THE HONORABLE JUDITH MEISELS ASHMANN-GERST, Associate Justice of the Court of Appeal, Second Appellate District, Division Two, is hereby assigned to assist the Supreme Court of California, as a justice thereof, on August 12, 2005, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

127868-05

THE HONORABLE RICHARD M. ARONSON, Associate Justice of the Court of Appeal, Fourth Appellate District, Division Three, is hereby assigned to assist the Supreme Court of California, as a justice thereof, on August 12, 2005, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

127870-05

THE HONORABLE COLEMAN A. BLEASE, Associate Justice of the Court of Appeal, Third Appellate District, is hereby assigned to assist the Supreme Court of California, as a justice thereof, on August 12, 2005, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a

vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

127871-05

THE HONORABLE PATRICIA D. BENKE, Associate Justice of the Court of Appeal, Fourth Appellate District, Division One, is hereby assigned to assist the Supreme Court of California, as a justice thereof, on August 12, 2005, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

127880-05

THE HONORABLE RICHARD D. ALDRICH, Associate Justice of the Court of Appeal, Second Appellate District, Division Three, is hereby assigned to assist the Supreme Court of California as a justice thereof, on August 12, 2005, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Supreme Court justice, petitions for rehearing arising out of such causes and matters.

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
SEPTEMBER 13, 2005**

(FIRST AMENDED)

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom, located at 350 McAllister Street, Fourth Floor, San Francisco, California, on September 13, 2005.

TUESDAY, SEPTEMBER 13, 2005 – 9:00 A.M.

- S125572 People v. Murphy (Mildred) -- (*Blease, J. assigned Justice Pro Tempore.*)
- S119498 State Personnel Bd. v. Dept. of Personnel Admin. (and related cases)
(*Aaron, J. assigned Justice Pro Tempore.*)
- S117964 People v. Yartz (Norman) -- (*Ardaiz, P.J. assigned Justice Pro Tempore.*)

1:30 P.M.

- S127505 People v. Partida (Jose) -- (*Ashmann-Gerst, J. assigned Justice Pro Tempore.*)
- S057063 People v. Elliot (Michael) (Automatic Appeal)
(*Aronson, J. assigned Justice Pro Tempore.*)
- S038073 People v. Manriquez (Abelino) (Automatic Appeal)
(*Benke, J. assigned Justice Pro Tempore.*)

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with rule 18(c) of the California Rules of Court.